Journal of Human Rights and Social Work
https://doi.org/10.1007/s41134-019-00092-2

Immigration and Asylum for Lesbian, Gay, Bisexual, and Transgender Individuals

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Abstract
Lesbian, gay, bisexual, and transgender (LGBT) individuals do not have equal or full human rights when compared to heterosexual individuals, families, and couples. In many countries around the world, LGBT individuals do not have a legal right to safety, to engage in consensual sex, get married, have children, or to be free of discrimination in housing, work, or public accommodation. In several countries, the governmental response to LGBT individuals is to jail or sentence them to death as a consequence. LGBT individuals may apply for asylum to the United States (U.S.), Canada, and the United Kingdom (U.K.) for these reasons. Frequently, applications to the U.S. are denied because the U.S. continues to discriminate against LGBT individuals. In addition, the U.S. discriminates against international LGBT couples and their children by denying their children U.S. citizenship. The aim of this paper is to present the global context regarding discrimination and immigration as a base to examine the impact of discrimination, immigration, and asylum requests in the U.S. This paper will review major legal cases involving LGBT individuals in order to recommend best ethical practices for social and political action. The role of social workers as change agents is explored.

Keywords Barriers · Immigration · Asylum · LGBT · Legal · Social work

Introduction

Lesbian, gay, bisexual, and transgender (LGBT) individuals do not have equal or full human rights when compared to heterosexual individuals, couples or families. Seventy-two countries consider being LGBT a crime (International Lesbian, Gay, Bisexual, Trans and Intersex Association 2018). Many LGBT individuals do not have a legal right to safety, to engage in consensual sex, get married, have children, or to be free of discrimination in housing, work, or public accommodation. In addition, many do not have adequate protections in their home country and often conceal their sexual orientations and gender identities to avoid daily persecution, which can include unlawful imprisonment, involuntary hospitalization, physical and psychological abuse, and sexual assault (Alessi and Kahn 2017).

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Article 14 of the United Nations Universal Declaration of Human Rights (1948) states, "Everyone has the right to seek and to enjoy in other countries asylum from persecution." Consequently, LGBT individuals may leave their homes and employment, and give up any economic security to flee to countries, such as the United Kingdom (U.K.), the United States (U.S.), and Canada, that have some laws prohibiting LGBT discrimination. However, once they migrate, they often encounter difficulties obtaining employment and housing (Alessi and Kahn 2017; Hopkinson et al. 2017). The aim of this paper is to present the global context regarding discrimination and immigration as a base to examine the impact of discrimination, immigration, and asylum requests in the U.S. This paper will review major legal cases involving LGBT individuals in order to recommend best ethical practices for social and political action.

LGBT individuals, who experience abuse and sexual trauma in their home countries, have higher rates of PTSD (Hopkinson et al. 2017). Based on the anti-LGBT societal norms in their home country, it is common for LGBT individuals to experience persecution at the hands of their family and community members. Consequently, persecuted LGBT individuals feel more alone and have trouble trusting new support systems after they migrate than the typical refugee or

Published online: 08 April 2019

immigrant who may retain some of their family as they migrate (Hopkinson et al. 2017). For example, Immigration Equality, an organization based in New York that advocates and fights for LGBT individuals, worked with Denise, a transgender woman who fled her home country of Trinidad to the U.S. after suffering years of abuse from her peers and the police (Immigration Equality 2018a, b, c). When she fled to the U.S., she was adversely impacted by PTSD and experienced four separate heart attacks. In addition to her deteriorating health, her gender identity was responsible for her termination from every job she had obtained. She lived on a subway platform for a month, was denied asylum, and was subsequently placed into removal proceedings to determine her deportation.

Immigration and Asylum

Like Denise, many LGBT individuals have trouble filing asylum claims post-migration (Alessi and Kahn 2017). Immigration laws are complex and ever-changing (Immigration Equality 2018a, b, c). For example, prior to the current U.S. Trump Administration, Immigration Equality noted that 11% of all migrants seeking asylum in the U.S. did not have access to attorneys, and that immigration judges denied 88% of all U.S. immigration cases (Immigration Equality 2018a, b, c). For individuals to gain eligibility for asylum in the U.S., they must meet the U.S. Immigration and Nationality Act (INA) definition of a refugee and be able to prove to the Board of Immigration Appeals (BIA) that they were being persecuted due to their sexual and gender identity (Immigration Equality 2018a, b, c).

Frequently, LGBT individuals seeking asylum are perceived to be "misusing" the system and are considered guilty until proven innocent (Akin 2017). In addition, many LGBT asylum seekers have to prove their sexuality to asylum officials who do not have a standard definition of sexuality nor a checklist to determine sexual orientation (Akin 2017). Many asylum officials use inaccurate, stereotypical, or degrading measures to determine and verify LGBT individuals' sexual orientation. For example, Czech authorities make their applicants take tests that measure the applicants' sexual arousal when viewing homosexual and heterosexual pornography (Akin 2017). A Washington Post article reports an Afghan teen was denied asylum in Austria because officials felt he did not act gay enough. '"Neither your walk, nor your behavior or clothes offer any indication at all that you might be homosexual," the official who rejected the asylum claim wrote' (Noack 2018, para 7).

Not only can the asylum process be complex and degrading, it can also take years. In Denise's case, it took five years for her to be granted asylum in the U.S. (Immigration Equality 2018a, b, c). Aderonke Apata, a Nigerian LGBT activist, was granted asylum in Britain after a legal battle that lasted 13 years (Taylor 2017). Apata first sought asylum in Britain in 2004 after being sentenced to death for running away from the husband she was forced to marry. African countries, like Apata's home country of Nigeria, have some of the strictest and harshest laws against LGBT individuals in the world. In 38 African countries, it is illegal to be in a same-sex relationship; in 4 countries, including northern Nigeria, the consequence is the death penalty (Amnesty International 2018; Taylor 2017).

Even after countries pass legislation that grants protections, LGBT individuals remain stigmatized. Rights and protections for LGBT individuals have increased throughout Latin America (Cheney et al. 2017). To date, 70% of Latin Americans live in countries where same-sex marriage is legal. Nevertheless, most Latin American countries, including Mexico, remain intensely conservative. Boundaries surrounding male identity, traditional female roles, machismo, and marianismo emphasize cultural norms that limit and punish behavior falling outside of such gender expectations (Cheney et al. 2017). Accordingly, protections for LGBT individuals have increased fears as they challenge stereotypical gender and cultural norms, including those in Mexico (Cheney et al. 2017). Many Mexican citizens do not support progressive LGBT legislation, and local governments have pushed back against the legislation publically, enacting laws that make being LGBT illegal (Cheney et al. 2017).

Changing Laws

While countries like Mexico still persecute their LGBT citizens regardless of progressive legislation, some countries are becoming more tolerant (Amnesty International 2018). African countries like Cape Verde decriminalized sexual minorities in 2004, while African island countries like Sao Tome, Mauritius, Principe, and the Seychelles have been working to decriminalize sexual minorities since 2009 (Amnesty International 2018). In 2004, South Africa introduced a law on legal gender recognition (Amnesty International 2018). In 2018, Kenya's High Court began hearing arguments from The National Gay and Lesbian Human Rights Commission in a case pertaining to the country's penal code (Associated Press (Producer) 2018a, b). The organization argued that the code targets LGBT individuals by criminalizing same-sex relationships and is being used to justify violence against the LGBT community (Associated Press (Producer) 2018a, b).

In the country of Lebanon, being LGBT is illegal. Article 534 in the Lebanese Penal Code states that all same-sex relationships contradict "laws of nature" and are punishable by up to a year in prison (Aagaard 2018). In spite of that, Aagaard (2018) found that many Lebanese judges failed to rule that LGBT individuals violate Article 534, which leads some to believe that the country is getting closer to decriminalizing same-sex relationships. Additionally, an underground drag

scene has been burgeoning in the country's capital of Beirut (Aagaard 2018). These steps toward decriminalization of LGBT expression can be attributed to the work of Lebanese LGBT activists as well as to the Lebanese peoples' access to American television, which often reflects Western culture's tolerance of LGBT individuals (Aagaard 2018).

There are some countries working to implement harsher legislation against LGBT individuals. Persecution of LGBT individuals has been on the rise in the world's largest Muslim nation, Indonesia (Associated Press (Producer) 2018a, b). For the last 2 years, Indonesian LGBT individuals have been targets of raids, arrests, attacks, and hate-inciting rhetoric from officials. The country's parliament is considering banning all sex outside of marriage and criminalizing LGBT individuals (Associated Press (Producer) 2018a, b). Arnold (2018) found that, similar to Indonesia, the government in Kyrgyzstan, a country located in Central Asia, has proposed legislation that would ban sexual and gender minorities. The law is still awaiting its final reading in parliament but has already led to a sharp increase of violence and intimidation against the LGBT community (Arnold 2018).

Impact on Employment

Arnold (2018) found that many Kyrgyz LGBT individuals are fired from their jobs of choice and instead work in the sex industry because of the discrimination they face in the average workplace. LGBT sex workers try to hide their sexual and gender identity because they are routinely assaulted and raped by hate groups who specifically seek to harm LGBT sex workers (Arnold 2018). Furthermore, LGBT Kyrgyzs are often filmed and publicly outed online by the country's police force. Consequently, many LGBT individuals in Kyrgyzstan migrate to Russia, which is also notorious for its unsympathetic attitudes toward LGBT individuals (Arnold 2018). Though prostitution is illegal in Russia, due to rampant police corruption, the law is not enforced. Arnold (2018) found that tens of thousands of LGBT Kyrgyzs migrate to Russia yearly to work in the sex trade (Arnold 2018).

Impact on Health

LGBT individuals living with HIV are often stigmatized in their home countries. A case in point, Immigration Equality fought to secure asylum and U.S. citizenship on behalf of Benjamin, a man living with HIV in Ghana. When Benjamin's brother showed signs of AIDS, his family poisoned and killed him, forcing Benjamin to flee the country after he also started showing symptoms of the virus (Immigration Equality 2018a, b, c).

In the case of Berera v. Holder (2012), Lambda Legal, a national U.S. legal organization that fights for the civil rights of LGBT individuals and individuals living with HIV/AIDS, filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit that urged the court to grant asylum to Karolina Lopez Berera, a Mexican transgender woman with HIV/AIDS (Berera v Holder 2012). The submitted brief documented the ways in which transgender individuals, especially transgender individuals living with HIV/AIDS, endure hate crimes, unsafe living conditions, discrimination, and neglect in Mexico. One of the ways this exclusion and discrimination is reflected is in Mexico's healthcare delivery, where treatment is purposely denied or withheld from transgender individuals because of their gender identity (Berera v Holder 2012). The Ninth Circuit ordered the Board of Immigration Appeals (BIA) to reconsider Lopez Berera's case and stayed her deportation (Berera v Holder 2012).

In 2017, the National Immigrant Justice Center (NIJC) submitted an amicus brief in the U.S. Court of Appeals for the Ninth Circuit that urged the court to rehear Carlos Alberto Bringas-Rodriguez's petition requesting asylum, which was originally denied by the BIA (Transgender Law Center 2018). Mr. Bringas-Rodriguez, a gay man living with HIV in Mexico who was assaulted and sexually abused by family members and neighbors as a child, was denied asylum because he could not provide evidence of his persecution. He did not go to the authorities when he was a child to report the abuse he suffered, and though he provided testimony and country reports highlighting the persecution of LGBT individuals in Mexico, his evidence of persecution was deemed insufficient (Graham and Martinez 2017; National Immigrant Justice Center 2017). Despite the original denial by the BIA, the Ninth Circuit granted an appeal in the case, which was lauded as ground breaking (National Immigrant Justice Center 2017).

The Ninth Circuit Court recognized that LGBT individuals cannot be expected to report the abuse they endure to authorities; they recognized that the persecution that LGBT individuals face by family members and neighbors can form the basis for a request for asylum; and they concluded that LGBT individuals cannot be held to a higher standard compared to non-LGBT individuals when asked to provide evidence that their home countries' governments are actively persecuting them or unwilling to protect them (Graham and Martinez 2017; National Immigrant Justice Center 2017). More importantly, the appeal overruled the case of Castro Martinez v. Holder (2011). In that case, the Ninth Circuit upheld the BIA's decision to deny asylum to Rafael Castro-Martinez, a Mexican gay man living with HIV who was sexually abused as a child, because he did not report his assault to the authorities when he was a child and could not provide proof of persecution (Center for Gender and Refugee Studies 2018). In Bringas' case, the court criticized Castro-Martinez v. Holder (2011) for creating a higher standard for children and because it assumed incorrectly that government authorities would be able and willing to protect

heterosexual children and sexual minority children equally (National Immigrant Justice Center 2017).

Detention Centers

The discrimination and abuse that LGBT individuals face often continues after they escape persecution in their home country (Alessi and Kahn 2017). When immigrants enter a country, they might be held in detention centers until they are granted a visa and released into the community or until they are deported back to their home country. Detention centers exacerbate the mental health difficulties of individuals who have already escaped traumatic life experiences prior to their migration (Filges et al. 2016). For example, being detained can trigger memories of the past persecution (Filges et al. 2016).

In addition to dealing with mental distress, detainees often face physical and verbal abuse. Too regularly, LGBT individuals are harassed by other detainees and receive very little protection from Immigration and Customs Enforcement (ICE) staff who may think abuse or harassment is justified. The Center for American Progress reports that detainees who are identified as LGBT are 15 times more likely to be sexually assaulted than detainees who are heterosexual or cisgender (Transgender Law Center 2014). In 2015, Nicoll Hernandez-Polanco, a transgender woman from Guatemala who was detained in an all-male detention facility in Arizona, was granted asylum after the Transgender Law Center and her immigration attorney started a public campaign to have her released (Transgender Law Center 2015; Transgender Law Center 2018). While Hernandez-Polanco was detained, she was sexually assaulted and verbally abused by other detainees and was placed in solitary confinement for "insolence" when she reported the abuse (Transgender Law Center 2015; Kellaway 2015a, b).

Marichuy Leal Gamino, a transgender woman from Mexico, was also detained in an all-male facility in Arizona (Transgender Law Center 2018). Gamino was at the detention facility for more than a year and was seeking asylum from the persecution she faced in Mexico when she was detained by ICE. While at the detention facility, Gamino was raped by a cellmate (Transgender Law 2014). She was pressured into signing a statement claiming the sexual assault had been consensual and was then placed in solitary confinement for speaking out about her rape (Kellaway 2015a, b). She was released on bond in 2015 after the TLC publically campaigned for her release (Transgender Law Center 2018).

LGBT advocates and lawyers in the U.S. note that immigration enforcement has expanded under U.S. President Donald Trump, and priorities for deportation have broadened. Thus, more asylum seekers with no history of criminal behavior are being detained (Licon 2017). Denis Davydov, a gay Russian man seeking asylum in California, was detained in an immigration detention facility for a month and a half after briefly visiting the U.S. Virgin Islands. Davydov, who also lives with HIV, was suspected by officials to have overstayed his visa despite his asylum case still pending and having no criminal record. Immigration Equality was able to secure his release after a few court hearings and is currently working on his behalf to secure asylum (Immigration Equality 2018a, b, c).

Impact on Children

Not only do LGBT individuals and their children face discrimination in the legal system, but, in regard to citizenship, LGBT couples do, as well. This is aptly illustrated by two recent, ongoing cases: Tillerson (2018a) and Tillerson (2019). In the case of Tillerson (2018a), Immigration Equality and Sullivan and Cromwell filed a lawsuit in the U.S. District Court of Columbia on behalf of Allison Blixt and her son Lucas. The couple is suing the U.S. State Department for refusing to grant U.S. citizenship to Lucas because he was born outside of the U.S. to a same-sex couple (Civil Rights Litigation Clearinghouse 2018a, b). Allison, a U.S. citizen, married Stefania, an Italian citizen living in England, and had two sons, Massi and Lucas. Allison gave birth to Massi, and Stefania gave birth to Lucas. At birth, both Lucas and Massi were qualified for U.S. citizenship in accordance with Section 301(g) of the Immigration and Nationality Act (INA), which grants a person born abroad full U.S. citizenship at birth if one of his or her parents is, or is married to a U.S. citizen and meets the authorized period of residency in the U.S. Allison has been a U.S. citizen her whole life and was married to Stefania before both her children were born. Consequently, she is legally authorized to pass her citizenship on to her children. When Allison and Stefania applied for U.S. citizenship for their children, the State Department recognized Massi as a U.S. citizen because he was conceived by Allison, a U.S. citizen, but denied Lucas' U.S. citizenship because he was conceived by Stefania, an Italian citizen.

Considering Lucas was not conceived by a U.S. citizen, the State Department erroneously applied Section 309 of the INA to the children instead of Section 301(g) and concluded that Lucas was not related to Allison and thus born out of wedlock and not entitled to U.S. citizenship (Tillerson 2018a). Blixt's lawsuit argues that by applying Section 309 instead of Section 301(g) to Lucas, the State Department is acting unconstitutionally. By denying Blixt's rights to due process and equal protection, the State Department is violating the Fifth Amendment of the U.S. Constitution. The U.S. Supreme Court has made it clear that the Constitution requires that same-sex marriages receive the same legal effects and respect as opposite-sex marriages. Thus, neither the INA nor the Constitution should permit the State Department's decision

regarding Lucas' citizenship to stand (Civil Rights Litigation Clearinghouse 2018a, b).

Immigration Equality and Sullivan-Cromwell filed another lawsuit in 2018 on behalf of Andrew and Ethan Dvash-Banks in the Central District of California (Tillerson 2018b). The Dvash-Banks are suing the U.S. State Department for not granting U.S. citizenship to Ethan because he was born abroad to a same-sex couple with dual-nationality (Civil Rights Litigation Clearinghouse 2018a, b). Andrew, a dual U.S. and Canadian citizen, and Elad, a dual Israeli and Canadian citizen, were married in Canada where they had twin sons, Ethan and Aiden, through a surrogate. Elad's sperm was used to conceive Ethan, and Andrew's sperm was used to conceive Aiden. At birth, both Ethan and Aiden were qualified for U.S. citizenship in accordance with Section 301(g) of the INA. Since Andrew has been a U.S. citizen his whole life and was married to Elad when both his children were born, he is legally permitted to pass his citizenship on to his sons.

When Andrew and Elad sought to have their twins' U.S. citizenship recognized, the couple were uniquely and unlawfully required to submit DNA tests and other documentation detailing their biological relationships to their sons. After the couple submitted tests and documentation, the State Department recognized Aiden as a U.S. citizen because he was conceived using Andrew's sperm but denied Ethan's U.S. citizenship because he was born using the sperm of Elad, an Israeli and Canadian citizen. Because Ethan was born using Elad's sperm and not Andrew's, the State Department erroneously applied Section 309 of the INA to the children instead of Section 301(g) (Tillerson 2018b). Currently, Ethan is only able to visit the U.S. on a temporary tourist visa. The Dvash-Banks lawsuit carries the same significance as the Blixt lawsuit; it argues that the State Department is applying Section 309 of the INA to Ethan improperly and is violating the Due Process and Equal Protection Clauses of the Fifth Amendment (Civil Rights Litigation Clearinghouse 2018a, b).

Barriers

LGBT immigrants continue to be a marginalized population as a result of the failure to recognize their basic human rights. Chang-Muy and Congress (2015) demonstrated that, historically, U.S. immigration law imposed bans on the LGBT population, utilizing demonizing language and preventing LGBT individuals from entering the U.S. until 1990. Although immigrants who identify as LGBT are not currently banned from entering the U.S., same-sex families do not have equal family-based immigration benefits as their opposite-sex counterparts owing to the U.S. viewing LGBT marriage differently when compared to heterosexual marriage (Chang-Muy and Congress 2015). In 2018, the U.S. State Department reversed a 2009 policy allowing family visas for domestic same-sex partners of foreign diplomats. Affected couples were given until the end of the year to marry or seek an alternative visa status or leave the country (Morello 2018). Although, we would argue that this policy is inconvenient but not discriminatory since LGBT U.S. citizens have had the right to marry a same-sex partner since the U.S. Supreme Court ruling Hodges (2015). A more convenient policy would automatically upgrade domestic partnerships or civil unions to marriage but this would wrongly assume that all same-sex couples would want to marry. In the Obergefell v. Hodges case, domestic partnerships or civil unions were ruled an unequal relationship status to marriage. The Court ruled that U.S. LGBT couples should have equal access to marriage recognition across the U.S. The U.S. government is treating LGBT and heterosexual couples equally by requiring all U.S. foreign diplomats to marry to receive benefits despite being significantly inconvenient to LGBT couples who had a prior domestic partnership or civil union.

Despite the celebration of diversity in the U.S., a long history of fear and anger has argued that immigrants steal employment opportunities, drain resources, and commit crimes. Eversman and Bird (2017) describe a form of "moral panic" associated with fear and anger which has spread into federal, state, and local anti-immigration policies. These policies have been largely ineffective and have, at times, been deemed unconstitutional, creating a foundation of institutional marginalization (Eversman and Bird 2017).

LGBT immigrants may feel isolated and fearful of coming out to the U.S. Government, believing that coming out may be used against them in the immigration process or that it is unsafe to reveal their sexual orientation or gender identity. Extensive resources exist for LGBT immigrants online, but individuals who come to the U.S. for asylum or refuge may not have access to these services, particularly among those who face language or cultural barriers. Because of this fear of exposure, it is difficult to obtain accurate data. The 2020 Census is expected to include questions regarding sexual orientation and immigration status which may provide more accurate numbers if respondents feel safe publicly identifying. A 2011 Census report estimated 904,000 LGBT immigrants live in the U.S. (Gates 2013). Approximately one-third of these individuals were undocumented and therefore face unique barriers in obtaining basic needs, such as education, employment, housing, and healthcare (Gates 2013). Given this prevalence, it is likely that helping professionals in every sector will come in contact with the LGBT immigrant population and can provide resources that members of that group otherwise may not be able to access.

The Social Work Response

The code of ethics of the National Association of Social Workers (NASW) has historically called for social workers to engage in the struggle for civil rights, with immigration

policy being a primary civil rights issue. The social work code of ethics not only advocates for social workers to increase their cultural awareness, to be competent, and to not discriminate, but it also calls them to social and political action (NASW 2017). Social workers are called in the NASW code of ethics to not "practice, condone, facilitate, or collaborate" with any type of discrimination (NASW 2017). Social Work Ethics 6.04, Social and Political Action demand that social workers go beyond many other professions to: (a) actively engage in social and political action to ensure that all people have equal rights; (b) act to expand choice and opportunity; (c) promote conditions, policies, and practices; and (d) act to prevent and eliminate domination of, exploitation of, and discrimination against any person (NASW 2017). Such action, promotion, prevention, and elimination are not merely the opinion of individuals; it is considered unethical to fail to act or fight against injustice, to change the current conditions that lead to discrimination against LGBT individuals who seek asylum or who are immigrants. Advocacy starts with the belief that social workers should act on behalf of LGBT individuals to ensure equality and this belief should lead to action.

Social and Political Action

A core competency of the social work profession is the commitment to "challenge social injustice and pursue social change on behalf of vulnerable and oppressed individuals and groups" (DeRigne et al. 2014, p. 317). Professional ethics direct social workers toward promoting cultural competency, fighting against discrimination, and advocating for systemic justice (de Silva et al. 2008). Social workers cannot passively fight for justice; rather, they must take an active stance in creating change for the LGBT immigrant population. Based on the major LGBT immigration and asylum legal cases reviewed above and on the NASW Code of Ethics, recommendations for best ethical practices for social and political action are made below.

Actively Engaging The 6.04 Social and Political Action of the NASW Code of Ethics calls social workers to be actively engaged in social and political action to ensure all people have equal rights, which includes equal rights for LGBT immigrants and asylum seekers (NASW 2017). For example, in cases like Tillerson (2018a) and Tillerson (2018b) where the U.S. State Department applied Section 309 of the INA to the children of same-sex couples instead of Section 301(g), social workers can advocate for same-sex couples to receive the same treatment as opposite-sex couples in regard to their children's applications for U.S. citizenship. This advocacy can involve increasing their awareness (e.g., receiving news blasts from LGBT advocacy and legal organizations) using their written words (e.g., letters, social media, teach others), voice (e.g., YouTube, speeches, voting, running for political office), and bodies (e.g., attend marches, pride events) to communicate support and expectations. This is especially timely as the Tillerson (2018a) case is currently ongoing.

Acting to Expand Choice and Opportunity Social workers can be knowledgeable and raise awareness of the Tillerson (2018a) and Tillerson (2018b) cases to inform other social workers and U.S. LGBT individuals of the legal precedents and how those precedents will affect them if they apply for U.S. citizenship for their children born abroad. Similarly, social workers can inform LGBT individuals of the implications of the Carlos Alberto Bringas-Rodriguez case in 2017 overruling Castro Martinez v. Holder (2015). The Bringas-Rodriguez case can demonstrate to LGBT asylum seekers that they are not required to report the abuse they endured to authorities who may in turn abuse them again and should not be held to a higher standard than non-LGBT individuals when asked to provide evidence of their home countries' active persecution. LGBT individuals should know what their rights and options are if they choose to apply for asylum in the U.S. These actions align with the section of 6.04 Social and Political Action about expanding choice and opportunity for all people, especially those who are often discriminated against such as the LGBT population.

Promoting Conditions, Policies, and Practices According to the NASW Code of Ethics, social workers should also actively promote conditions, policies, and practices that encourage respect for cultural and social differences in the U.S. and abroad. With the previous cases in mind, this could include supporting Immigration Equality and Sullivan and Cromwell in the ongoing Tillerson (2018a) case. Social workers can also educate other social workers and ICE staffers about LGBT issues and advocate for a more respectful process for LGBT asylum seekers. In addition, social workers can take a stand against the treatment of transgender individuals like Nicoll Hernandez-Polanco and Marichuy, transgender women who were held in all-male detention centers and sexually assaulted after entering the U.S. Social workers can start with reform in local prisons. Taking a stand can involve financially supporting the legal and advocacy organizations that fight on behalf of LGBT causes, equality and rights or being knowledgeable in understanding the difference between sexual orientation and gender identity. Knowing the difference between sexual orientation and gender identity helps a social worker to understand in which facility a transgender male should be placed. Transgender individuals and their affirmed gender identity should be respected in all facilities. A transgender male (or female) should be placed in a male (or female) facility where they will be protected from harm. If the system is not able to protect them from harm, then they must be placed in one

that can or be released. Social workers must not tolerate the sexual assault of anyone including LGBT individuals in criminal justice facilities.

Acting to Prevent and Eliminate Domination of, Exploitation of, and Discrimination against any Person All the actions mentioned in the sections above would also help prevent and eliminate the domination of, exploitation of, and discrimination against any person, whether LGBT individuals or otherwise. By engaging in the political process (e.g. being elected, volunteering for a campaign, voting, marching, etc.) and by educating the public and government officials about the discrimination that LGBT individuals have experienced while applying for citizenship and asylum, and advocating for policy changes, social workers can assist in preventing future discrimination.

All helping professionals should advocate for LGBT individuals to have equal human rights as those enjoyed by heterosexual individuals, families, and couples. Taking the United Nations Declaration of Human Rights and the NASW Code of Ethics together, it is mandated that social workers stand up for the rights and dignity of LGBT immigrants if they are ethical social workers. Specifically, LGBT individuals who are persecuted in home countries and threatened with violence, jail, or death should receive asylum without having to prove that they are LGBT in the same way that heterosexual and cisgender individuals do not have to prove that they are such. Professionals should ensure that LGBT families and their children have the same rights to citizenship as heterosexual families.

Helping professionals, especially social workers who have their professional beginnings helping immigrants become part of the culture of the U.S. in the settlement house movement, should actively engage in social and political action to ensure that all people have equal rights, act to expand choice and opportunity, promote conditions, policies, and practices, and act to prevent and eliminate domination of, exploitation of, and discrimination against any person. Helping immigrants who were often persecuted because of their ethnicity is how our profession began over 120 years ago. Just like LGBT immigrants escaping persecution, early settlers into our major cities were often escaping social and political dangers in their home countries. Social workers did not hesitate to help these people with their struggles. Our present anti-immigrant politics may need the intervention skills of the social work profession.

Jane Addams and her colleagues did not hesitate to become involved beyond the Chicago neighborhood where they established Hull House. These social work pioneers knew that direct service was important, but to make lasting change, they would have to influence the wider politics. They worked with the state legislature to establish child labor and workplace safety laws, and established the first juvenile court (Addams 1910). Hull House resident Grace Abbott saw the need to protect immigrants coming to the U.S. in massive numbers in the early twentieth century and established the Immigrants Protective League to assist these newcomers in adjusting to the American way of life and protect them from fraud (Abbott 1917). These early pioneers saw a need and filled it.

Social work has changed significantly since Hull House. Most of the early social workers recognized and participated in mezzo level community social work and macro level political social work that changed the political climate toward the poor and immigrants, e.g., Harry Hopkins and the Work Progress Administration and Francis Perkins and Social Security. Today, most social workers go into direct practice. In a 2018 report released by the Council for Social Work Education on 2017 social work graduates, fully 92% were working in direct practice while only 2.6% chose direct work with communities and 3.7% were in indirect social work which included social policy and advocacy (Salsbert et al. 2018). However, the Commission to Advance Macro Social Work Practice has a goal of increasing macro level social workers in the U.S. to 20% by 2020. This movement has the support of Association for Community Organization & Social Administration (ACOSA). International Schools of Social Work can support this mission by starting or strengthening the macro social work curriculum and by encouraging students to pursue macro social work. Macro social work curriculum will lead to greater advocacy skills for social workers and power to change policies and politics. Schools of Social Work should consider dual degrees or minors in political science and social justice in order to maximize the ability to make change. Perhaps it is time for the field to begin encouraging young social workers to return to the field roots as social change agents.

Some MSW programs have already added social justice concentrations to their curriculums in response to students' interest in working in the wider community. Justice-oriented social workers could advocate in immigrant communities for better living conditions, improved work conditions, and higher wages to help these families settle into their new communities and flourish by challenging work places, landlords, and those who fear immigrants in their community. As they did in the early twentieth century, social workers need to become a part of preventative solutions by advocating for new laws that protect the immigrant, especially the LGBT individual who carries additional burdens. After conducting research to determine the number of LGBT immigrants, the formation of an LGBT Immigrants Protective League may be warranted.

Article Six of the United Nations Declaration of Human Rights states, "Everyone has the right to recognition everywhere as a person before the law" followed by Article Seven "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of

this Declaration and against any incitement to such discrimination". It is not clear if LGBT individuals are fully afforded these rights in the U.S. What is clear is that LGBT individuals seeking asylum from their home countries deserve recognition and protection from abusive practices, and they deserve the advocacy of the social work profession.

References

Aagaard, T. (2018). Meet the 'Fearless' Drag Queens of Beirut. BBC. Retrieved from http://www.bbc.com/news/in-pictures-43489374. https://www.apa.org/ethics/code/ethics-code-2017.pdf.

Abbott, G. (1917). *The immigrant and the community*. New York: The Century Co..

Addams, J. (1910). *Twenty years at Hull house*. New York: McMillan Publishers.

Akin, D. (2017). Queer asylum seekers: translating sexuality in Norway. *Journal of Ethnic and Migration Studies, 43*(3), 458–474.

Alessi, E. J., & Kahn, S. (2017). A framework for clinical practice with sexual and gender minority asylum seekers. *Psychology of Sexual Orientation and Gender Diversity, 4*(4), 383–391.

American Psychological Association (APA) (2017). Ethical principles of psychologists and code of conduct. Retrieved from https://www.apa.org/ethics/code/ethics-code-2017.pdf

Amnesty International (2018) Amnesty international facts and figures, making love a crime: criminalization of same-sex conduct in sub-Saharan Africa. Retrieved on 4/27/18 from https://www.amnestyusa.org/files/making_love_a_crime_-_facts__figures.pdf

Arnold, K. (2018). Transgender Kyrgyz Seek Unlikely Refuge in Russia. BBC. Retrieved from http://www.bbc.com/news/world-asia-41437866.

Associated Press (Producer) (2018a). Rights group challenges Kenya's anti-gay laws in court [streaming video]. Retrieved from Associated Press Video Collection database.

Associated Press (Producer) (2018b). UN: 'strains of intolerance' making inroads in Indonesia [streaming video]. Retrieved from Associated Press Video Collection database.

Berera v. Holder, No. 11-71250 (9th Cir. Apr. 9, 2012).

Blixt v Tillerson, 1:18-cv-00124 (D.D.C, 2018a).

Bringas-Rodriguez v. Lynch, No. 13–72682 (9th Cir. 2015). Justia United States Law. Retrieved from https://law.justia.com/cases/federal/appellate-courts/ca9/13-72682/13-72682-2015-11-19.html

Castro-Martinez v. Holder, 674 F.3d 1073 (9th Cir. 2011)

Center for Gender and Refugee Studies. (2018). Castro-Martinez v. Holder. Center for Gender and Refugee Studies: Our Work. Retrieved from: https://cgrs.uchastings.edu/our-work/castro-martinez-v-holder

Chang-Muy, F., & Congress, E. P. (2015). *Social work with immigrants and refugees: legal issues, clinical skills and advocacy (2nd ed)*. New York: Springer Publishing Company.

Cheney, M. K., Gowin, M. J., Taylor, E. L., Frey, M., Dunnington, J., Alshuwaiyer, G., Huber, J. K., Garcia, M. C., & Wray, G. C. (2017). Living outside the gender box in Mexico: testimony of transgender Mexican asylum seekers. *American Journal of Public Health., 107*(10), 1646–1652.

Civil Rights Litigation Clearinghouse. (2018a, April 19). Case profile: Blixt v. Tillerson. (2018). Civil rights litigation Clearinghouse. Retrieved from https://www.clearinghouse.net/detail.php?id=16415

Civil Rights Litigation Clearinghouse. (2018b, April 19). Profile: Dvash-Banks v. Tillerson. Civil Rights Litigation Clearinghouse. Retrieved from https://www.clearinghouse.net/detail.php?id=16417

Dvash-Banks v. Tillerson, 2:18-cv-00523 (C.D. Cal., 2018b).

de Silva, E.C., Congress, E., Lopez, L., Palacio-Grottola, S., Wong, J., and Richards, D. (2008). Immigration Policy Toolkit. Retrieved from https://www.socialworkers.org/LinkClick.aspx?fileticket=5y6LlGaBFRw%3D&portalid=0

DeRigne, L., Rosenwald, M., & Naranjo, F. A. (2014). Legislative advocacy and social work education: models and new strategies. *Journal of Policy Practice, 13*(4), 316–327. https://doi.org/10.1080/15588742.2014.929071.

Dudley Street Neighborhood Initiative. (n.d.). Retrieved from http://www.dsni.org/ on April 11, 2016.

Eversman, M. H., & Bird, J. D. (2017). Moral panic and social justice: a guide for analyzing social problems. *Journal of Social Work, 62*(1), 29–36. https://doi.org/10.1093/sw/sww068.

Filges, T., Montgomery, E., & Kastrup, M. (2016). The impact of detention on the health of asylum seekers: a systematic review. *Research on Social Work Practice., 28*(4), 399–414.

Freire, P. (1970). *Pedagogy of the oppressed*. New York: Herder and Herder.

Gates, G. J. (2013). LGBT adult immigrants in the United States. Retrieved from: https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTImmigrants-Gates-Mar-2013.pdf

Graham, B., & Martinez, R. (2017). Asylum case further define proof of persecution for gay man. *The Journal of the American Academy of Psychiatry and the Law, 45*(4), 508–509.

Hopkinson, R. A., Keatley, E., Glaeser, E., Erickson-Schroth, L., Fattal, O., & Sullivan, M. N. (2017). Persecution experiences and mental health of LGBT asylum seekers. *Journal of Homosexuality, 64*(12), 1650–1666.

Immigration Equality. (2018a). Asylum Basics: Elements of Asylum Law. Immigration Equality. Retrieved from https://www.immigrationequality.org/get-legal-help/our-legal-resources/immigration-equality-asylum-manual/asylum-basics-elements-of-asylum-law/#.Wspu_X__rIU

Immigration Equality (2018b). Get Legal Help. Immigration Equality: the nation's leading LGBTQ immigrant rights organization. Retrieved from https://www.immigrationequality.org/get-legal-help/#.WtN4bH__rIU

Immigration Equality. (2018c). Our Clients. Asylum seekers. Immigration Equality: the nation's leading LGBTQ immigrant rights organizations. Retrieved from https://www.immigrationequality.org/about-us/our-clients/#.WtN28H__rIU

James, S.E., Herman, J.L., Rankin, S., Keisling, M., Mottet, L., and Anafi, M. (2016). The Report of the 2015 United States Transgender Survey. Retrieved from http://www.ustranssurvey.org/

Kellaway, M. (2015a). Detained trans immigrant Marichuy Gamino to be released. Advocate Retrieved from https://www.advocate.com/politics/transgender/2015/01/22/detained-trans-immigrant-marichuy-gamino-be-released

Kellaway, M. (2015b). Guatemalan trans woman released after harrowing six months in immigration detention. Advocate Retrieved from https://www.advocate.com/immigration/2015/05/04/guatemalan-trans-woman-released-after-harrowing-six-months-immigration-detent

Lambda Legal. (2011). Lambda Legal urges federal court to grant asylum to transgender woman living with HIV/AIDS. Lambda Legal. Retrieved from https://www.lambdalegal.org/news/ca_20111130_lambda-legal-urges-federal-court-to-grant-asylum

Licon, A. G. (2017). Russian with HIV seeking US asylum is detained in Florida. AP. Retrieved from. https://www.apnews.com/89cfb7d46ef24b88814a1effcc3dfbe7/Russian-with-HIV-seeking-US-asylum-is-detained-in-Florida.

Morello, C. (2018). State department changes visa rule\s for same-sex partners of foreign diplomats. The Washington Post.

Morse, G., Salyers, M. P., Rollins, A. L., Monroe-DeVita, M., & Pfahler, C. (2012). Burnout in mental health services: a review of the problem and its remediation. *Administration and Policy in Mental Health, 39*(5), 341–352. https://doi.org/10.1007/s10488-011-0352-1.

National Association of Social Workers (NASW) (2017). Code of Ethics of the National Association of Social Workers. Retrieved from https://socialwork.utexas.edu/dl/files/academic-programs/other/nasw-code-of-ethics.pdf

National Child Traumatic Stress Network (2015). Safe places, safe spaces: Creating welcoming and inclusive environments for traumatized LGBTQ youth video. Retrieved from https://www.nctsn.org/resources/safe-places-safe-spaces-creating-welcoming-and-inclusive-environments-traumatized-lgbtq-0

National Immigrant Justice Center. (2017). Ninth circuit grants petition for review for HIV positive gay man from Mexico. National Immigrant Justice Center. Retrieved from https://www.immigrantjustice.org/press-releases/ninth-circuit-grants-petition-review-hiv-positive-gay-man-mexico

National Queer Asian Pacific Islander Alliance. Media release: immigrants' rights are LGBT rights. (2016a). NQAPIA. Retrieved from http://www.nqapia.org/wpp/media-release-immigrants-rights-are-lgbt-rights/

National Queer Asian Pacific Islander Alliance. Media release: LGBT Asians deeply disappointed in U.S. Supreme Court decision denying immigrants' right. (2016b). NQAPIA. Retrieved from http://www.nqapia.org/wpp/media-release-disappointed-in-us-supreme-court/

Noack, R. (2018, August 17). Not gay enough: Afghan teen loses Austrian asylum case for demeanour. Sydney Morning Herald. Retrieved on 3/20/2019 from https://www.smh.com.au/world/europe/not-gay-enough-afghan-teen-loses-austrian-asylum-casefor-demeanor-20180817-p4zxzf.html

Obergefell v. Hodges, 576, U.S (2015).

Portman, S. & Weyl, D. (2013). LGBT refugee resettlement in the US: emerging best Practices. Retrieved from http://www.fmreview.org/sogi/portman-weyl.html?text_size=regular-text

Quezada, J. A.. (2015). Nicoll, a transgender immigrant woman from Guatemala, freed from detention. GLAAD. Retrieved from https://www.glaad.org/blog/nicoll-transgender-immigrant-woman-guatemala-freed-detention

Salsbert, E., Quigley, L., Acquaviv, K., Wyche, K. & Silwa, S. (2018). Results of the nationwide survey of 2017 social work graduates. The George Washington University Health Workforce Institute.

Taylor, L., (2017). Nigerian LGBT activist granted asylum in U.K. After 13 years. All Africa Global Media https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html

The International Lesbian, Gay, Bisexual, Trans and Intersex Association. (2018). Maps: Sexual Orientation Laws. ILGA. Retrieved from https://ilga.org/maps-sexual-orientation-laws

Theriault, D. (2017). Implementation of promising practices for LGBTQ inclusion: a multilevel process. *Journal of Parks and Recreation Administration, 35*(3), 123–135. https://doi.org/10.18666/JPRA-2017-N35-13-7702.

Transgender Law Center. (2014). #FREEMARICHUY transgender woman raped in Eloy Detention Center; ICE refuses to ensure her safety. Transgender Law Center. Retrieved from https://transgenderlawcenter.org/archives/10843

Transgender Law Center. (2015). Transgender asylum seeker faces abuse in immigration detention. Transgender Law Center. Retrieved from https://transgenderlawcenter.org/archives/11347

Transgender Law Center. (2018). Our legal and policy work. Transgender Law Center. Retrieved from https://transgenderlawcenter.org/legal/immigration

UN General Assembly, Universal Declaration of Human Rights, (1948), 217 A (III), available at: http://www.refworld.org/docid/3ae6b3712c.html [Accessed 11 Sept 2018].

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